

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2017/2018

UIF2612 – ISLAMIC FAMILY LAW

(All Sections / Groups)

1 JUNE 2018

Reading Time : 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time: 9.15 a.m. – 12.15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 4 pages with 5 Questions only.
3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copy of:
 - i. Islamic Family Law Act 1984
 - ii. Al-Quran (translation)
5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

Syakir and Nabila were colleagues in one Telecommunication Company. They fall in love and decided to settle down with marriage. Three months after the marriage, the company they were working with faced a huge financial loss that led to retrenchment of employees including both of them.

Syakir and Nabila faced a difficult time, where they tried to find other jobs but of no avail. At the same time, they were burdened with financial commitments. Syakir became very stressful and started to change his behavior to a bad-tempered husband. Nabila tried to understand the situation and took an attempt to ease the burden by selling *Kueh Pau* in front of her house and the business ran well.

Syakir on the other hand was offered to work at Kelab Malam Kepala Pusing by his former schoolmate. He worked at night and returned home drunk almost every day. He became abusive and beat Nabila whenever she failed to fulfill his desire on bed. He never provide maintenance to Nabila but he was the one who asked for money from Nabila for unknown purposes. Nabila tried to be patient until she came to know that Syakir did involve in drugs.

Nabila became very depressed and she started to refuse to follow her husband's demand. She felt that she has to stand strong to defend herself. In their quarrel, Syakir shouted at her "you will become a *Nusyuz* wife for not following what I want".

Nabila, who was unable to cope with the situation anymore, came to you to seek for your advice on the possible way(s) for her to end the marriage. She is now pregnant with four months and also said that she has never remitted her *maskahwin* up to date.

Meanwhile, Syakir keeps on telling Nabila that he will never agree to pronounce the *Talaq* and the divorce between them is not going to happen.

Advise Nabila.

(Total marks: 25)

Continued...

QUESTION 2

"Marriage is the only process through which families are brought into existence; therefore it is of magnificent importance for human society. It is due to the fact that family constitutes the fundamental unit of the structure of society, that the Prophet (PBUH), insisted his followers with capability of marriage to enter marriage contract. However, it should be born in mind that there are certain procedures and rules that Shari'ah has prescribed for the process of entering into the contract of marriage which has to be abided".

(Laluddin & Abdul Manap, The Contract of Marriage and Its Purposes from Islamic Perspective, Asian Social Science; Vol. 10, 2014)

Based on the above, discuss in detail the elements of a valid marriage.

(Total marks: 25)

QUESTION 3

Hisham is a handsome man, married to Fatimah and blessed with two kids. Hisham works as a Marketing Manager in a well-known advertising company in Kuala Lumpur.

In one of the business meetings with clients, Hisham met Marina, a beautiful model. From there they started to become friends and went out together often. After some times, they made confession that both of them had fall in love with each other and the relationship continued for several months.

At the same time, Hisham became so confused that he still loves his wife. However, he also felt that he can't afford to lose Marina. He decided to tell Marina about his status as a married man and Marina accepted it. She also told Hisham that she is willing to be the second wife to him. After several discussions, they had come to an agreement to get into an engagement, and it was held as planned with the presence of only the family members. They were gifts exchanged between them including the ring.

The news of the engagement was heard by the media and it became widely covered in TV and magazines thereafter. Being a famous model, Marina could not escape from the limelight. She later decided to reveal the name of her fiancée and it was reported as it is. This had later reached the knowledge of Fatimah who never knew about her husband's act. The news caused her an emotional breakdown and she wanted Hisham to choose between her and the children or Marina.

Continued...

Hisham was in the middle of nowhere and was so afraid that he will lose her wife and kids. He immediately met Marina and said "We have to end this and I'm sorry I can't marry you". He also texted Marina that his decision to engage was a mistake and wanted Marina to forget him. He also said that the blame can't be put on him alone as Marina knew that he is a married man.

Marina was very frustrated and embarrassed for the cancellation of the wedding.

(a) Advise Marina on the possible action(s) available on her against Hisham.

(17 marks)

(b) Assuming that Fatimah agreed to accept if Hisham has to contract a polygamous marriage. Advise Hisham as to the requirements needed before he can practice polygamy.

(8 marks)

(Total marks: 25)

QUESTION 4

Ziana, a very good and kind young lady married to Arman, a successful lawyer on 30 April 2016. At the beginning of their marriage, everything went well and they lived happily. Both of them are working and they bought a house for their family. However, after some times, they started to argue with each other almost every day pertaining to their marital problems and some domestic disputes. Arman wanted Ziana to follow his western lifestyle whereas Ziana was brought up by her family in an Islamic and decent way of life.

One day, they had a big quarrel between them where Arman unable to control his anger during that time because he was drunk. Arman has divorced his wife Ziana with one *talaq* on 8 July 2016 at their matrimonial home in the presence of Ziana's sister, Nora. Arman then left the house and never come back. On 21 February 2017, Ziana meet you to get your advice on her and her son's rights who was born on 18 January 2017 as Arman never gave her any maintenance since he left their matrimonial house and that Arman refused to acknowledge that the baby boy is his son.

Support your answer with relevant authorities.

(Total marks: 25)

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QUESTION 5

It is presumed that it is for the good of a child during his or her infancy to be with the mother, thus making the mother the best person to take care of the child. However, there are certain circumstances where a mother might be disqualified from the right of custody (*hadhanah*) of her child.

Other than that, in deciding the right of custody, the court will take into account the welfare of the children as the paramount consideration in its decision.

Elaborate the above statement in detail by referring to relevant authorities including Hadith, provisions in the Islamic Family Law (Federal Territory) Act 1984 as well as the decided cases.

(Total marks: 25)

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